Court No.2

Writ Petition No. 137 of 2002 (S/B)

Ram Kumar Gautam ……. Petitioner

Vs.

D.I.G. Garhwal Range and others…….. Respondents

Hon. P.C. Verma, A.C.J.

Heard Sri V.B.S. Negi, learned counsel for the petitioner and Sri B.D.Kandpal, learned Standing Counsel.

This writ petition has been filed seeking a writ of certiorari to quash the dismissal order dated 8.8.2001 passed by the Superintendent of Police, Pauri Garhwal and order dated 3.12.2001 passed by the D.I.G. Garhwal Range on the ground that the petitioner is a regular police Constableand was substantively holding the post. A show cause notice was issued to the petitioner requiring him to show cause as to why the period for which he over stayed after the sanctioned leave, should not be treated as service without payk, to which petitioner submitted reply. After receipt of the reply, petitioner was dismissed. Admittedly, no departmental inquiry has been held.

A perusal of the impugned order shows that the authority has passed the dismissal order only after recording that it is not necessary to hold inquiry looking to the past conduct of the petitioner. This order is in clear cut violation of Article 311(2) of the Constitution of India. Therefore, this order can not be sustained in eye of law. A writ of certiorari is issued. The order dated 8.8.2001 passed by the Superintendent of Police, Pauri Garhwal and order dated 3.12.2001 passed by the D.I.G. Garhwal Range are hereby quashed.

The petition is accordingly allowed. No order as to costs.

(P.C. Verma, J.)

Dt. 18.6.2003
A